

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re:
MARK ALLEN McNAUGHTON and MARNA
LOUISE McNAUGHTON,
Debtors.

Lead Case No. 12-11906-KAO
Member Case No. 12-12823-KAO
(administratively consolidated)

In Re:
THE McNAUGHTON GROUP, LLC.
Debtor.

MICHAEL P. KLEIN, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF THE
McNAUGHTON GROUP, LLC,

Adv. No. 14-01225-KAO

Plaintiff,

v.

ANSWER AND AFFIRMATIVE
DEFENSES TO COMPLAINT TO QUIET
TITLE, FOR DECLARATORY RELIEF
AND TO AVOID AND RECOVER
TRANSFERS UNDER BANKRUPTCY
CODE SECTIONS 544, 548, 550 AND
RCW 19.40 ET. SEQ.

BRIAN HOLTZCLAW, individually and on
behalf of his marital community; JANE DOE
HOLTZCLAW, individually and on behalf of
her marital community; JANNETTE M.
WEIMER, Personal Representative of the Estate
of Richard F. Buss; KELLY ASKEW,
individually and on behalf of her marital
community; JOHN DOE ASKEW, individually
and on behalf of his marital community; KEVIN
BALLARD, individually and on behalf of his
marital community; JANE DOE BALLARD,
individually and on behalf of her marital
community,

Defendants.

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 1

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS. 1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1 Defendant Jannette M. Weimer, in her capacity as Personal Representative of the Estate
2 of Richard F. Buss ("Defendant"), submits this Answer and Affirmative Defenses to Complaint
3 to Quiet Title, For Declaratory Relief and to Avoid and Recover Transfers Under Bankruptcy
4 Code Sections 544, 547, 550 and RCW 19.40 ET SEQ., (the "Complaint") and states as follows:

5 **I. ANSWER**

6 In answer to Paragraph 1.1 of the Complaint, Defendant admits the Second, Fourth,
7 Sixth, Seventh, Tenth, Eleventh, Twelfth and Thirteenth Causes of Action are core proceedings.
8 Defendant asserts that First, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Causes of
9 Action require consent to entry of final orders by the bankruptcy judge, and Defendant does not
10 consent. Defendant denies every remaining allegation.

11 In answer to Paragraph 1.2 of the Complaint, Defendant admits the allegations.

12 In answer to Paragraph 1.3 of the Complaint, Defendant admits the allegations.

13 In answer to Paragraph 1.4 of the Complaint, Defendant admits the allegations.

14 In answer to Paragraph 2.1 of the Complaint, Defendant lacks sufficient information to
15 admit or deny the allegations and therefore denies them.

16 In answer to Paragraph 2.2 of the Complaint, Defendant lacks sufficient information to
17 admit or deny the allegations and therefore denies them.

18 In answer to Paragraph 2.3 of the Complaint, Defendant lacks sufficient information to
19 admit or deny the allegations and therefore denies them.

20 In answer to Paragraph 2.4 of the Complaint, Defendant lacks sufficient information to
21 admit or deny the allegations and therefore denies them.

22 In answer to Paragraph 2.5 of the Complaint, Defendant admits the allegations in the first
23 sentence, third sentence, and fourth sentence. Defendant denies every remaining allegation.
24 admits the allegations.

25 In answer to Paragraph 2.6 of the Complaint, Defendant lacks sufficient information to
26 admit or deny the allegations and therefore denies them.

1 In answer to Paragraph 2.7 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 2.8 of the Complaint, Defendant lacks sufficient information to
4 admit or deny the allegations and therefore denies them.

5 In answer to Paragraph 2.9 of the Complaint, Defendant lacks sufficient information to
6 admit or deny the allegations and therefore denies them.

7 In answer to Paragraph 3.1 of the Complaint, Defendant lacks sufficient information to
8 admit or deny the allegations and therefore denies them.

9 In answer to Paragraph 3.2 of the Complaint, Defendant lacks sufficient information to
10 admit or deny the allegations and therefore denies them.

11 In answer to Paragraph 3.3 of the Complaint, Defendant lacks sufficient information to
12 admit or deny the allegations and therefore denies them.

13 In answer to Paragraph 3.4 of the Complaint, Defendant asserts the allegations are legal
14 conclusions to which no response is required to the extent a response is requested, Defendant
15 denies the allegations.

16 In answer to Paragraph 3.5 of the Complaint, Defendant admits TMG established a profit
17 sharing plan and Buss earned a bonus for calendar year 2006 that was to be paid on February 28,
18 2007. Defendant lacks sufficient information to admit or deny the remaining allegations and
19 therefore denies them.

20 In answer to Paragraph 3.6 of the Complaint, Defendant admits TMG gave Buss a
21 promissory note dated March 1, 2007. Defendant lacks sufficient information to admit or deny
22 the remaining allegations and therefore denies them.

23 In answer to Paragraph 3.7 of the Complaint, Defendant lacks sufficient information to
24 admit or deny the allegations and therefore denies them.

25 In answer to Paragraph 3.8 of the Complaint, Defendant contends the document speaks
26 for itself, and denies each and every remaining allegation not consistent with document.

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 3

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS. 1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

51376178.1

1 In answer to Paragraph 3.9 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 3.10 of the Complaint, Defendant lacks sufficient information to
4 admit or deny the allegations and therefore denies them.

5 In answer to Paragraph 3.11 of the Complaint, Defendant contends the document speaks
6 for itself, and denies each and every remaining allegation not consistent with document.

7 In answer to Paragraph 3.12 of the Complaint, Defendant contends the document speaks
8 for itself, and denies each and every remaining allegation not consistent with document.

9 In answer to Paragraph 3.13 of the Complaint, Defendant lacks sufficient information to
10 admit or deny the allegations and therefore denies them.

11 In answer to Paragraph 3.14 of the Complaint, Defendant lacks sufficient information to
12 admit or deny the allegations and therefore denies them.

13 In answer to Paragraph 3.15 of the Complaint, Defendant lacks sufficient information to
14 admit or deny the allegations and therefore denies them.

15 In answer to Paragraph 3.16 of the Complaint, Defendant lacks sufficient information to
16 admit or deny the allegations and therefore denies them.

17 In answer to Paragraph 3.17 of the Complaint, Defendant lacks sufficient information to
18 admit or deny the allegations and therefore denies them.

19 In answer to Paragraph 3.18 of the Complaint, Defendant lacks sufficient information to
20 admit or deny the allegations and therefore denies them.

21 In answer to Paragraph 3.19 of the Complaint, Defendant lacks sufficient information to
22 admit or deny the allegations and therefore denies them.

23 In answer to Paragraph 3.20 of the Complaint, Defendant lacks sufficient information to
24 admit or deny the allegations and therefore denies them.

25 In answer to Paragraph 3.21 of the Complaint, Defendant lacks sufficient information to
26 admit or deny the allegations and therefore denies them.

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 4

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS. 1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
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51376178.1

1 In answer to Paragraph 3.22 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 3.23 of the Complaint, Defendant lacks sufficient information to
4 admit or deny the allegations and therefore denies them.

5 In answer to Paragraph 3.24 of the Complaint, Defendant lacks sufficient information to
6 admit or deny the allegations and therefore denies them.

7 In answer to Paragraph 3.25 of the Complaint, Defendant lacks sufficient information to
8 admit or deny the allegations and therefore denies them.

9 In answer to Paragraph 3.26 of the Complaint, Defendant lacks sufficient information to
10 admit or deny the allegations and therefore denies them.

11 In answer to Paragraph 3.27 of the Complaint, as to the first sentence, Defendant lacks
12 sufficient information to admit or deny the allegation and therefore denies them. As for the
13 second sentence, Defendant contends the document speaks for itself, and denies each and every
14 remaining allegation not consistent with document.

15 In answer to Paragraph 3.28 of the Complaint, Defendant admits the allegations.

16 In answer to Paragraph 3.29 of the Complaint, Defendant admits the allegations.

17 In answer to Paragraph 3.30 of the Complaint, Defendant lacks sufficient information to
18 admit or deny the allegations and therefore denies them.

19 In answer to Paragraph 3.31 of the Complaint, Defendant contends the document speaks
20 for itself, and denies each and every remaining allegation not consistent with document.

21 In answer to Paragraph 3.32 of the Complaint, Defendants admits TMG executed two
22 security agreements in favor of the Employee Defendants. Defendant contends the document
23 speaks for itself, and denies each and every remaining allegation not consistent with document.

24 In answer to Paragraph 3.33 of the Complaint, Defendant contends the document speaks
25 for itself, and denies each and every remaining allegation not consistent with document.
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1 In answer to Paragraph 3.34 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 3.35 of the Complaint, Defendant lacks sufficient information to
4 admit or deny the allegations and therefore denies them.

5 In answer to Paragraph 3.36 of the Complaint, Defendant contends the document speaks
6 for itself, and denies each and every remaining allegation not consistent with document.

7 In answer to Paragraph 3.37 of the Complaint, Defendant lacks sufficient information to
8 admit or deny the allegation and therefore denies them.

9 In answer to Paragraph 3.38 of the Complaint, Defendant lacks sufficient information to
10 admit or deny the allegations and therefore denies them.

11 In answer to Paragraph 3.39 of the Complaint, Defendant lacks sufficient information to
12 admit or deny the allegations and therefore denies them.

13 In answer to Paragraph 3.40 of the Complaint, Defendant admits the UCC-1 financing
14 statements were filed, but lacks sufficient information to admit or deny the remaining allegations
15 and therefore denies them.

16 In answer to Paragraph 3.41 of the Complaint, Defendant lacks sufficient information to
17 admit or deny the allegations and therefore denies them.

18 In answer to Paragraph 3.42 of the Complaint, Defendant lacks sufficient information to
19 admit or deny the allegations and therefore denies them.

20 In answer to Paragraph 3.43 of the Complaint, Defendant lacks sufficient information to
21 admit or deny the allegations and therefore denies them.

22 In answer to Paragraph 3.44 of the Complaint, Defendant lacks sufficient information to
23 admit or deny the allegations and therefore denies them.

24 In answer to Paragraph 3.45 of the Complaint, Defendant lacks sufficient information to
25 admit or deny the allegations and therefore denies them.

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ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 6

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS.1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

51376178.1

1 In answer to Paragraph 3.46 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 3.47 of the Complaint, Defendant admits the allegations.

4 In answer to Paragraph 3.48 of the Complaint, Defendant lacks sufficient information to
5 admit or deny the allegations and therefore denies them.

6 In answer to Paragraph 3.49 of the Complaint, Defendant admits Buss filed a proof of
7 claim in the TMG bankruptcy. Defendant lacks sufficient information to admit or deny the
8 remaining allegations and therefore denies them.

9 In answer to Paragraph 3.50 of the Complaint, Defendant admits Buss filed a proof of
10 claim in the TMG bankruptcy on or about July 24, 2012. Defendant denies every remaining
11 allegation.

12 In answer to Paragraph 3.51 of the Complaint, Defendant contends the document speaks
13 for itself, and denies each and every remaining allegation not consistent with document.

14 In answer to Paragraph 3.52 of the Complaint, Defendant contends the document speaks
15 for itself, and denies each and every remaining allegation not consistent with document.

16 In answer to Paragraph 3.53 of the Complaint, Defendant lacks sufficient information to
17 admit or deny the allegations and therefore denies them.

18 In answer to Paragraph 3.54 of the Complaint, Defendant lacks sufficient information to
19 admit or deny the allegations and therefore denies them.

20 In answer to Paragraph 3.55 of the Complaint, Defendant lacks sufficient information to
21 admit or deny the allegations and therefore denies them.

22 In answer to Paragraph 3.56 of the Complaint, Defendant lacks sufficient information to
23 admit or deny the allegations and therefore denies them.

24 In answer to Paragraph 3.57 of the Complaint, Defendant lacks sufficient information to
25 admit or deny the allegations and therefore denies them.

1 In answer to Paragraph 3.58 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 3.59 of the Complaint, Defendant lacks sufficient information to
4 admit or deny the allegations and therefore denies them.

5 In answer to Paragraph 3.60 of the Complaint, Defendant lacks sufficient information to
6 admit or deny the allegations and therefore denies them.

7 In answer to Paragraph 3.61 of the Complaint, Defendant lacks sufficient information to
8 admit or deny the allegations and therefore denies them.

9 In answer to Paragraph 3.62 of the Complaint, Defendant lacks sufficient information to
10 admit or deny the allegations and therefore denies them.

11 In answer to Paragraph 4.1 of the Complaint, Defendant denies the allegations.

12 In answer to Paragraph 4.2 of the Complaint, Defendant denies the allegations.

13 In answer to Paragraph 4.3 of the Complaint, Defendant denies the allegations.

14 In answer to Paragraph 4.4 of the Complaint, Defendant denies the allegations.

15 In answer to Paragraph 4.5 of the Complaint, Defendant lacks sufficient information to
16 admit or deny the allegations and therefore denies them.

17 In answer to Paragraph 4.6 of the Complaint, Defendant lacks sufficient information to
18 admit or deny the allegations and therefore denies them.

19 In answer to Paragraph 4.7 of the Complaint, Defendant lacks sufficient information to
20 admit or deny the allegations and therefore denies them.

21 In answer to Paragraph 4.8 of the Complaint, Defendant lacks sufficient information to
22 admit or deny the allegations and therefore denies them.

23 In answer to Paragraph 4.9 of the Complaint, Defendant denies the allegations.

24 In answer to Paragraph 5.1 of the Complaint, Defendant denies the allegations.

25 In answer to Paragraph 5.2 of the Complaint, Defendant denies the allegations.
26

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 8

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS. 1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

51376178.1

1 In answer to Paragraph 5.3 of the Complaint, Defendant lacks sufficient information to
2 admit or deny the allegations and therefore denies them.

3 In answer to Paragraph 5.4 of the Complaint, Defendant lacks sufficient information to
4 admit or deny the allegations and therefore denies them.

5 In answer to Paragraph 5.5 of the Complaint, Defendant denies the allegations.

6 In answer to Paragraph 6.1 of the Complaint, Defendant denies the allegations.

7 In answer to Paragraph 6.2 of the Complaint, Defendant denies the allegations.

8 In answer to Paragraph 6.3 of the Complaint, Defendant denies the allegations.

9 In answer to Paragraph 6.4 of the Complaint, Defendant lacks sufficient information to
10 admit or deny the allegations and therefore denies them.

11 In answer to Paragraph 6.5 of the Complaint, Defendant lacks sufficient information to
12 admit or deny the allegations and therefore denies them.

13 In answer to Paragraph 6.6 of the Complaint, Defendant lacks sufficient information to
14 admit or deny the allegations and therefore denies them.

15 In answer to Paragraph 6.7 of the Complaint, Defendant denies the allegations.

16 In answer to Paragraph 6.8 of the Complaint, Defendant lacks sufficient information to
17 admit or deny the allegation and therefore denies them.

18 In answer to Paragraph 7.1 of the Complaint, Defendant contends the statement does not
19 require answer.

20 In answer to Paragraph 7.2 of the Complaint, Defendant lacks sufficient information to
21 admit or deny the allegations and therefore denies them.

22 In answer to Paragraph 7.3 of the Complaint, Defendant lacks sufficient information to
23 admit or deny the allegations and therefore denies them.

24 In answer to Paragraph 7.4 of the Complaint, Defendant denies the allegations.

25 In answer to Paragraph 8.1 of the Complaint, Defendant contends the statement does not
26 require answer.

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 9

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS. 1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

51376178.1

1 In answer to Paragraph 8.2 of the Complaint, Defendant contends the statement does not
2 require answer.

3 In answer to Paragraph 8.3 of the Complaint, Defendant contends the statement does not
4 require answer.

5 In answer to Paragraph 8.4 of the Complaint, Defendant admits the allegations.

6 In answer to Paragraph 8.5 of the Complaint, Defendant contends the document speaks
7 for itself, and denies each and every remaining allegation not consistent with document.

8 In answer to Paragraph 8.6 of the Complaint, Defendant lacks sufficient information to
9 admit or deny the allegations and therefore denies them.

10 In answer to Paragraph 8.7 of the Complaint, Defendant asserts the allegations are legal
11 conclusions to which no response is required.

12 In answer to Paragraph 8.8 of the Complaint, Defendant denies the allegations.

13 In answer to Paragraph 8.9 of the Complaint, Defendant denies the allegations.

14 In answer to Paragraph 8.10 of the Complaint, Defendant asserts the allegations are legal
15 conclusions to which no response is required. To the extent a response is required, Defendant
16 contends the statement does not require an answer.

17 In answer to Paragraph 8.11 of the Complaint, Defendant denies the allegations.

18 In answer to Paragraph 8.12 of the Complaint, Defendant denies the allegations.

19 In answer to Paragraph 9.1 of the Complaint, Defendant contends the statement does not
20 require answer.

21 In answer to Paragraph 9.2 of the Complaint, Defendant denies the allegations.

22 In answer to Paragraph 9.3 of the Complaint, Defendant denies the allegations.

23 In answer to Paragraph 9.4 of the Complaint, Defendant denies the allegations.

24 In answer to Paragraph 9.5 of the Complaint, Defendant denies the allegations.

25 In answer to Paragraphs 10.1 through 10.6 of the Complaint, Defendant denies the
26 Plaintiff is entitled to any relief.

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 10

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS.1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

51376178.1

1 **II. AFFIRMATIVE DEFENSES**

2 1. The Trustee is barred from any affirmative recovery of any Transfers from
3 Defendant because the Trustee did not timely file a claim in the Buss estate probate proceedings.

4 2. The Trustee has failed to state a claim for one or more of the causes of action
5 asserted against Defendant.

6 3. The transfers were taken for value, in good faith, and without knowledge of the
7 voidability of the transfers.

8 4. If any transfers are deemed avoidable, Buss was a good-faith transferee and
9 Defendant is entitled, to the extent of the value given to TMG for each transfer, to: (a) a lien on
10 or a right in any interest incurred, (b) enforcement of all obligations incurred, or (c) a reduction
11 in the amount of liability on the judgment.

12 **III. PRAYER FOR RELIEF**

13 WHEREFORE, Defendant respectfully prays for the following relief:

14 1. Entry of a judgment denying all relief requested by Trustee and dismissing with
15 prejudice all claims that were raised or could have been raised by the Trustee in this adversary
16 proceeding;

17 2. An award of attorneys' fees and costs incurred by Defendant to the fullest extent
18 allowed by contract, law and equity;

19 3. For permission to amend its pleadings to conform to the evidence at trial; and

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4. Such further relief as the Court may deem just and proper.

DATED this 20th day of June 2014.

FOSTER PEPPER PLLC

/s/ Christopher M. Alston

Christopher M. Alston, WSBA #18223

1111 Third Avenue, Suite 3400

Seattle, WA 98101

T: 206-447-4400

F: 206-749-1904

Email: alstc@foster.com

*Attorneys for Jannette M. Weimer in her
capacity as Personal Representative of the
Estate of Richard F. Buss (Defendant)*

ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES – 12

FOSTER PEPPER PLLC
ADMITS THE ALLEGATIONS.1 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 20, 2014, I caused to be served upon parties in this action, at the addresses and in the manners noted below, true and accurate copies of:

1. Answer and Affirmative Defenses to Complaint to Quiet Title, for Declaratory Relief and to Avoid and Recover Transfers Under Bankruptcy Code Sections 544, 548, 550 and RCW 19.40 ET. SEQ.; and

2. this Certificate of Service.

VIA ECF

Manish Borde
WILLIAMS KASTNER & GIBBS PLLC
601 Union Street, Suite 4100
Seattle, WA 98101
T: 206-628-6600
Email: mborde@williamskastner.com
Attorneys for Plaintiff

VIA EMAIL

Jerry N. Stehlik
BUCKNELL STEHLIK SATO &
STUBNER, LLP
2003 Western Avenue, Suite 400
Seattle, WA 98121
T: 206-587-0144
Email: jstehlik@bsss-law.com
Attorney for Defendants Holtzclaw, Askew and Ballard

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on June 20, 2014, at Seattle, Washington.

/s/ Lisa Cachopo

Lisa Cachopo